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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

BEFORE

THE HON'BLE MR JUSTICE R V RAVEENDRAN

Writ Petition No 7308 of 1989

Between:

68

H C Puttaswamy
s/o Channappa
No.35, 1st Main
1st Cross, Maruthi Extension
Srirampuram
Bangalore - 21

..Petitioner

(By Sri M R Naik, advocate)

And:

1. Corporation of the City
of Bangalore
represented by its Commissioner

2. The Assistant Executive
Engineer, Mahalakshmi Sub Dn.,
City Corporation
Bangalore

..Respondents

(By Sri B V Muralidhar, Adv., for R1 & R2)

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Writ Petition is filed praying to quash
Annexures B and C dated 11-4-1989 and 17-4-1989.

This writ petition coming on for hearing this
day, the Court made the following:-

ORDER

The petitioner claims to be the owner of the property bearing Municipal No 30, 3rd Cross, Lakshminarayanapura, Bangalore, measuring 45'x37'6", having purchased the same under a registered sale deed dated 26-5-1986. The petitioner claims that he purchased the property which comprised of the land and an old building. Initially the petitioner intended to demolish the old structure and put up a new one. Accordingly he applied for a licence and sanction plan, which was granted by the corporation as per LP No 300/87-88 dated 28-3-1988.

2. The petitioner claims that subsequently he found that the foundation and the walls of the old structure were strong and therefore there was no need to demolish the same. He, therefore, decided to remove only the asbestos roofing and replace it by RCC roofing and to put up a further floor. Accordingly, the petitioner claims to have given a modified plan for sanction. When the said application for modification was pending consideration, the corporation issued two notices viz., notice dated 11-4-1989 [Annexure 'B'] under

RMR

69

-3 -

Section 321(1) & (2) and notice dated 17-4-1989 [Annexure 'C'] under Section 321(3) of the Karnataka Municipal Corporation Act, 1976 ('Act' for short) alleging that the petitioner had violated the sanction plan. According to the corporation, the petitioner had to leave a set back of 6', 3', 6' and 4' on the left, right, front and rear sides of the building, but the petitioner had left only a set back of 3', 2', 3' and 2' respectively on the said four sides and thus violated the sanction plan dated 28-3-1988. Therefore, the corporation directed the petitioner to demolish the deriations. Feeling aggrieved, the petitioner has filed this petition and sought quashing of Annexure 'B' and 'C' and a direction to the corporation to sanction the modified plan and permit the petitioner to complete the renovation work.

3. The petitioner contends that though he obtained a sanction of plan for demolishing the old structure, as he found that the old building was strong, he did not demolish the old building and decided only to change the roofing; that as the old building has been in existence for a a long time, the question of old building complying with the set

Rmk

70

backs prescribed in the ^{new} plan sanctioned on 28-3-1988 did not arise. The petitioner contends that the sanctioned plan dated 28-3-1988 would be applicable only if he had demolished the old building and reconstructed ^{a new} ~~the~~ building. In the circumstances, he contends that until the application filed by him for modification of the plan, proposing to retain the old structure and to change only the roofing thereof and adding of first floor, is disposed of, the corporation could not take any action as has been done under Annexure 'B' and 'C'.

4. The petition averment that the petitioner had applied for modification of the sanctioned ^{ed} plan and that the petitioner had not demolished [✓] the old building remains uncontroverted. The question of petitioner leaving set backs which are required for construction of a new building, will not arise, if petitioner is altering the old building, provided sanction is obtained for such alterations.

5. Hence, this petition is disposed of as follows:

RMR

- 71
- a) The Corporation is directed to consider the request of the petitioner for sanction of modified plan and pass appropriate orders in accordance with law.
- b) If, the corporation fails to trace out the application filed by the petitioner seeking modification in the sanction plan, the corporation shall inform the petitioner and the petitioner shall have liberty to file a fresh application for modification; and
- c) Until such disposal, Annexure 'B' and 'C' shall not be given effect.



*pjk/ujk

Sd/-
JUDGE